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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/922,884	08/06/2001	Gregory J. Mesaros	GEDP101USE	9136
7590	03/10/2006		EXAMINER	
Himanshu S. Amin National City Center, 24th Floor 1900 East 9th Street Cleveland, OH 44114			NGUYEN, CUONG H	
			ART UNIT	PAPER NUMBER
			3661	

DATE MAILED: 03/10/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	09/922,884	MESAROS, GREGORY J.
	Examiner	Art Unit
	CUONG H. NGUYEN	3661

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 31 October 2005.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-19,43-47 and 57-69 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-19,43-47 and 57-69 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date. _____
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
	6) <input type="checkbox"/> Other: _____.

DETAILED ACTION

1. This Office Action is the answer to the amendment received on 10/31/2005.
2. Claims 1-19, 43-47, and 57-69 are pending; claims 57-69 are newly added.

Response

3. Because of the amendment received on 10/31/2005, the examiner respectfully presents new grounds of rejections; the arguments are moot.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

4. **Claims 1-19, 43-47, and 57-69, are rejected under 35 U.S.C. 103(a) as being unpatentable over Pallakoff (U.S. Patent No. 6,269,343), in view of Shavit et al. (US Pat. 4,799,156).**

A. As to independent claim 1: Pallakoff discloses a system, comprising components to:

- electronically offering a product for sale (see Pallakoff, Fig. 1 ref. 12a, and col. 3 line 5 - col. 4 line 36);

- receiving a first order for the product at a first price (see Pallakoff, col. 3 line 11 - col. 4 line 17);

- receiving a second order for the product at a second price, the second price being lower than the first price (see Pallakoff, col. 2 lines 27-28; col. 3 line 11 - col. 4 line 17); then a seller will make a price decision/calculation (that means including a

shipping price (a customer has to pay) for a total cost of each order, see Pallakoff, col.6 lines 14-21, and col.11 lines 44-46).

Pallakoff does not expressly disclose about sharing a shipping fee to reduce a cost for the product.

However, Shavit et al. suggest that sharing freight/shipping costs with other is one of many strategies to reduce total costs (see Shavit et al., col.17 lines 17-21).

The examiner also respectfully submits that “delivery lunch” to an office with many different courses for many employees from a Chinese restaurant read-on the claim idea of “different buyers sharing shipping”, i.e. a delivery fee for lunch meals that ordered together in a list is different and cheaper than the cost for shipping/delivery from that same restaurant to different individual orders for that lunch.

Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to combine Pallakoff’s system and Shavit et al.’s suggestion to calculate/charge a lower price for customers (including shipping price for that order – usually an order’s shipping cost is calculated from weight/size of that order, it is well-known to include many different orders in one package for the advantage of to avoid standard charges for separate orders and increasing efficiencies; especially many employees of the same office order different products in a list from that same office). Please note that this claim is merely a system to calculate a lowest price for customers including shipping prices determinations according to USA zip-code for shipping to because according to the above Chinese restaurant well-known example, ordering together would save shipping fees comparing to making separate orders.

B. As to dependent claim 3: This claim is directed to a system; therefore, “physical” components are required. Pallakoff also suggests a system to receiving different orders from different parties, and manages those users’ information by Systems Controller 13 (see Pallakoff’s Internet configuration, Fig. 1 refs. 14a – 14d).

C. As to dependent claims 4-5, and 63-67: Pallakoff also discloses an “access control”/security component using an account number to control access of sellers and buyers; this “access control” covers analyzing of different permission levels such as checking if that is a whole/retail buyer (see Pallakoff, Fig. 1 ref. 13; including sending messages/notices to sellers, and buyers/users by emails as required by claims 66-67, see Pallakoff Fig.3 refs. 37-38). This controller is also well-known of given permission to read/write as claim 65 requires.

D. As to dependent claims 6-7: Pallakoff’s system comprises a terms and conditions components to manage agreements between buyers and sellers: including a price agreement; this suggests an agreement among involved parties is required to keep that system follows predefined regulations (see Pallakoff, the abstract’s “conditional offer”, and col. 1 line 55 – 58, and col. 12 lines 5-10 “term”).

E. As to dependent claims 12-13: Pallakoff also suggests a pricing component to manage agreements between buyers and sellers as to product prices, managing accounts (i.e., System’s Operator 13 as a middle-man, “maintaining a deposit account with the system operator”, using a Look Up Table to relate a price to a product as well-known practices, and providing supports to buyers/sellers: including answering related questions from System Operator- see Pallakoff, Fig. 1 ref. 13 – the “System Controller 13” performs above claimed functions).

As to dependent claim 12: The examiner respectfully submits that Pallakoff discloses an invoice containing a user's account number, that detail is used to "manage" account.

As to dependent claim 13: The examiner respectfully submits that Pallakoff discloses a component such as System's Controller 13 of Fig.1 to performs routine tasks and to provide supports to buyers/users such as a decision support, a price check etc.

H. As to dependent claim 11: Pallakoff discloses a system comprises a component such as a system controller 13 operable to manage product/price requests (see Pallakoff, Fig.1 ref.13).

I. As to dependent claims 14, and 19: Pallakoff discloses a system with terminal 12 and terminal 14 representing "a seller agent", and "a buyer agent"; Pallakoff suggests that his system creates an order a buyer according to a buyer's request (see Pallakoff, col. 11 lines 44-46).

J. As to dependent claim 16: This claim is directed to a system, comprising an ability of a seller such as an ability to analyze orders, or checking inventory vs. an order's requirement. Pallakoff also suggests that a system controller 13 gives detail information of a seller in an offer (that is a function/an ability of a system's controller - see Pallakoff, Fig.1 ref. 13, and Fig.3 ref.37).

K. As to independent claim 43: Pallakoff suggests a system for volume pricing, as detailed analysis in claim 1 above, comprising:

- a server configured to receive orders for a product from a plurality of different buyers via at least one remote computer system, the server comprising "physical components":

- a processor;

a memory coupled to the processor; and
a network interface coupled to the processor for transmitting and receiving data with a remote computer system (the examiner submits that a network interface can be an antenna that can transmit/receive data via a remote controller, see Pallakoff, Fig.1).

Pallakoff does not expressly disclose specific content of a memory; however, the examiner respectfully submits that Pallakoff sufficiently provides structural components to build up the claimed system, that detailed information in a memory are merely non-functional descriptive material that do not change the claimed system.

It would have been obvious to one of ordinary skill in the art at the time of invention to combine Pallakoff and Shavit et al. to implement Pallakoff's memory to contain a first price schedule and a second price schedule due to these schedules (such as containing 2 different Look-up tables) are merely "non-functional descriptive material" that do not significantly change the claimed structure of Pallakoff (please note also that a common practice of "share-shipping" to reduce a shipping cost in a total price has been widely used as shown by Shavit et al.).

L. As to dependent claims 44-45: The examiner respectfully submits that a first and a second price are determined according to a quantity of product ordered, or depending on when an order is placed (such as "buy 1 item" or buy "10 of same items" that utilizing 2 different Look-Up tables; see Pallakoff, Fig.3 ref. 32 to see that Pallakoff suggests a decision for "when an order is placed" (such as during a Christmas season, prices are reduced to draw more customers' attention), see Pallakoff, the abstract, and claims 1, 8). Please note also that this claimed limitation is merely a non-functional descriptive

material stored in a memory component: a total quantity, and a price that changes with time.

M. As to dependent claim 46: Pallakoff discloses a system wherein different buyers access to view detailed product information (e.g., the first and second price schedules, or different prices according to order's quantity) via remote computes (see Pallakoff, Fig.9 ref. 96 wherein those LUTs for prices are presented for viewing) – further, it is a common sense to display detailed materials/data because a user always want to know detailed information before making an order of a product (this claim's format is also improper, see "The server of claim 43,").

N. As to dependent claim 47: Pallakoff discloses a system controller 13 comprising a memory storage to receiving orders wherein a server being configured to limit a period during which orders for the product are accepted to an open session period – this limitation is a non-functional detail description material: a limited time/a “when” decision requirement (see Pallakoff, Fig.3 ref. 32, and claims 1, 8).

O. As to dependent claim 2: This claim is merely directed to a system as in claim 1, comprising a product catalog – the examiner respectfully submits that this claimed feature is well-known.

Pallakoff discloses a system to order a variety of products (see Pallakoff, Fig.1 refs. 12a-12x).

Pallakoff does not disclose a catalog of products in his system. However, a list of products would have been available for customers to make selections, and knowing that product's availability, and price .etc., those information would have been obvious to one of ordinary skill in the art at the time of invention as

“catalog” means containing related information of provided products for related references.

P. As to dependent claims 8-10: Pallakoff discloses a system comprising a product database (system controller 13 consists of server hardware running database software).

He does not disclose a relationships component to manage relationships between products (a byproduct relationship – e.g., a monitor screen and a desk-top computer system, or a NEC monitor screen 17” versus a NEC monitor screen 20”, or a cow and that cow’s milk, or fuel/motor oil, or cakes/scramble eggs (byproducts).

However, it would have been obvious to one of ordinary skill in the art at the time of invention to implement Pallakoff’s structure to use a relational database (indicating a relationship between products) instead of a regular database for “linking” between products because claiming “a relationship” between “product” is merely “comprising non-functional descriptive material” that do not significantly change Pallakoff’s system as claims 8-10.

Q. As to dependent claims 15, and 18: Pallakoff does not disclose that his system uses customer’s historical data to determine a price.

However, it was old and well-known that customers’ historical data/profiles have been widely used for selling products (e.g., a Circuit City store uses customer’s phone number to trace a consumer’s history, and Best Buy stores give discount coupons (a different price) to past customers in their database) – a motivation for using customer’s profile for determining a price is to encourage regular visitors for doing more business with those stores (please note that claim 18’s “to assist at least one of the plurality of

buyers in finding a best buy for at least one of a plurality of products” is merely an intent of use of a “system” claim).

It would have been obvious to one of ordinary skill in the art at the time of invention with a combination of Pallakoff and Shavit et al.’s to using customer’s historical data to determine a pricing strategy of a product with respect to a group of buyers (e.g., checking if different orders are from the same office/address to reduce delivery costs or using different LUT if many orders can be combined to make a mass order).

R. As to dependent claim 17: Pallakoff suggests that his system could provide information of a production schedule (e.g., delivery time of a product that MUST BE ordered in order to make a different product that need a different process – see Fig. 3 ref. 31 wherein a seller specifies a date limit, to complete selling a product for starting with another process).

The motivation is that detail information about a production schedule has been informed to buyers for anticipation/preparation of their own events.

S. As to dependent claims 57-58: These claims are directed to a system, wherein “the first and second price schedule vary in accordance with at least one of special offers and coupons possessed by at least one buyer of the plurality of buyers”, and “prices are vary with buyers’ status”; please note that the above limitation is belongs to “non-functional descriptive material”; therefore, it is obvious that a system contains a memory with those requirements (please note also that 2 passengers sitting next to each other on an airplane may pay 2 different prices depending on when and how those tickets were bought; e.g., a stand-by ticket with a low-price, and a regular price ticket; an order of one product has

different price than an average cost for a product in another “massive” order of 100 items).

T. As to dependent claims 59-60: This claim is directed to a system, comprising a memory encoded with “a non-functional descriptive material” such as a specific conditional order. The examiner respectfully submits that “an IF condition”, OR “a conditional order” such as “if a defense contract goes through” is TRUE, an order is made. This well-known situation meets the required claimed limitations

U. As to dependent claims 61-62, and 68-69: The examiner respectfully submits that these claimed limitations are well known. These claims are directed to “system”, comprising:

- As to claim 61, a server provides a forum that offer products with differing price schedules. This is a well known capability of a server such as a CHAT room about selling information.
- As to claim 62, a server provides a web page with information about quantity of product, This claim is merely directed to a well-known task of able to view price/order quantity on a web site (please note that this claim cites “...the seller to provide information to the seller”, this is an error).
- As to claim 68, it is directed to a system, having a memory storing a “specific” information (i.e., providing discount pricing). This is well-known to provide discount pricing to all products in a store to draw customers (“liquidation”, “discount 5% to all products in store”).
- As to claim 69, it is directed to a **system** comprising a memory storing a “specific” information such as historical data of involved parties. The examiner respectfully submits

that cited reference discloses a system with a memory, what contains in that memory is called “non-functional descriptive material” and are obvious to one with ordinary skill in the art because using “historical data” and “buyer input data” have been excellent sources to determine shipping prices for that customer (e.g., determining whether that is a frequent/loyal customer or a normal customer with his name, and address).

Conclusion

5. All pending claims are not patentable.
6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.
 - Shkedy (U.S. Patent No. 6260024) discloses systems and methods are described for providing a global bilateral buyer-driven system for creating binding contracts by incorporating various methods of communication, commerce and security for the buyers and the sellers.
 - Walker et al. (U.S. Patent no. 6,108,639) discloses a collectible conditional purchase offer (CPO) management system is disclosed for receiving and, processing individual CPOs from buyers for one or more collectibles.
 - Walker et al. (U.S. Patent No. 5,794,207) discloses a method and apparatus for effectuating bilateral buyer-driven commerce.
7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to CUONG H. NGUYEN whose telephone number is 571-272-6759. The examiner can normally be reached on 9:00 am - 5:30 pm.
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, THOMAS G. BLACK can be reached on 571-272-6956. The Rightfax

number for the organization where this application is assigned is 571-273-6956.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Please provide support, with page and line numbers, for any amended or new claim in an effort to help advance prosecution; otherwise any new claim language that is introduced in an amended or new claim may be considered as new matter, especially if the Application is a Jumbo Application.



CUONG H. NGUYEN
Primary Examiner
Art Unit 3661